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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/857,125 | 08/28/2001 | Shigeo Tsuzuki | AW-C090 | 9821 |

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EXAMINER

AVERY, BRIDGET D

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| ART UNIT | PAPER NUMBER |
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3618

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/857,125

Applicant(s)

TSUZUKI ET AL.

Examiner

Bridget Avery

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-62 is/are pending in the application.
- 4a) Of the above claim(s) 46-54 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 45 is/are allowed.
- 6) ☒ Claim(s) 39-44 and 55-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. The amendment filed by applicant on May 9, 2003 is acknowledged and has been entered.
2. An action on the merits of claims 39-62 follows.
3. The declaration and substitute specification filed by applicant on May 9, 2003 is acknowledged and has been entered.
4. The drawing correction filed by applicant on May 9, 2003 is acknowledged and has been approved.

Election/Restrictions

5. Newly submitted claims 46-54 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: applicant's invention, as originally claimed, is distinct from the invention defined by claims 46-54 because the original claims, filed by applicant, did not require the rotor to be fixed to and supported by **only** the input member of the fluid transmitting apparatus. Applicant's original claims only required that the rotor be supported by **at least** one of an input member of a fluid transmitting apparatus, an output shaft, and the case of the fluid transmitting apparatus. While original claims 20-38 required that **at least** one of an input member of a fluid transmitting apparatus, an output shaft, and the case of the fluid transmitting apparatus support the rotor, other possible supports were not excluded. On the contrary, the newly submitted claims 46-54 exclude the use of other supports. For this reasons, the invention as defined by claims 46-54 are clearly distinct from the

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claims defined by newly presented claims 39-45 and 55-62 (which correspond with the originally presented invention as defined by original claims 20-38).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 46-54 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

An action on the merits of claims 39-45 and 55-62 follows.

Priority

6. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 39-42, 55, 56, 59 and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Werner et al. (US Patent 6,041,901).

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Werner et al. clearly teaches a drive apparatus for a hybrid vehicle including: a motor including a stator (13) and a rotor (11); an automatic transmission having a fluid transmitting apparatus (5) with an input member for receiving driving force output from an engine and the motor; a case (12) for receiving the motor; and the motor (electric machine 14) is arranged radially and axially overlapping the fluid transmitting apparatus (5), with a predetermined gap between the rotor (11) and the fluid transmitting apparatus (5), and where the rotor is (11) supported by the output shaft (1) of the engine and an input member of the fluid transmitting apparatus (5). The rotor (11) includes a hub (6) at a center of rotation thereof (or central hub), the hub (6) having a shaft portion (2) contacting an output shaft (1) of the engine only in an axially narrow area, thereby being supported by the output shaft (1) for free axial movement relative to the output shaft (1). The fluid transmitting apparatus (5) has front cover (4) covering a turbine runner and serving as the input member connected to a pump impeller (as shown in the Figure near reference number 5), and the front cover (4) includes a radially extending inner portion/center portion, an axially extending middle portion outward from the center portion, an outer portion connected to the center portion and the rotor (11) is arranged on an outer side of and parallel to the middle portion with the predetermined gap therebetween. The front cover (4) has an axial extension at the center portion and the central hub is mounted on the axial extension (at reference number 3), thereby centering the rotor (11). With respect to claims 55 and 59, the drive apparatus including the case (12) for receiving the motor and the rotor (11) is supported by the case (12),

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the input member of the fluid transmitting apparatus (5) and by the an output shaft (1) of the engine.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 43, 57 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werner et al. ('901) in view of Tabata et al. (US Patent 6,340,339).

Werner et al. teaches the features described above.

Werner et al. lacks the teachings of a lockup clutch (49).

Tabata et al. teaches a vehicle drive device including a multi-disc lockup clutch (49) for connecting an input member to a turbine (48).

Based on the teachings of Tabata et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the drive apparatus of Werner et al. to include a multi-disc lockup clutch to provide selective connection and disconnection of the input member to the turbine and to prevent slip between the input member and the turbine.

9. Claims 44, 58 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Werner et al. ('985).

Werner et al. teaches the features described above.

Werner et al. lacks the teaching of a gap predetermined to range between 0.8 and 3.5mm.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made to position the elements of the drive apparatus to include a gap predetermined to range between 0.8 and 3.5mm, since it has been held that where general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Allowable Subject Matter

10. Claim 45 is allowed.

Response to Arguments

Applicant's arguments with respect to claims 20-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Taniguchi et al. shows a drive unit for hybrid vehicle.

Miyakawa shows an electric motor.

Peter shows a torque converter mounted starter/generator for a motor vehicle.

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Baehler et al. shows a starter-generator for engines.

Hall, III shows a torque transmitting fluid unit with positive lock-up clutch.

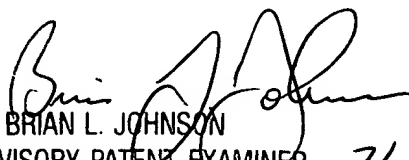
12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 703-308-2086.


Avery

July 25, 2003


BRIAN L. JOHNSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3500
7/28/03